

**STATE OF MINNESOTA  
COURT OF APPEALS  
A19-0665**

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Michelle MacDonald & MacDonald Law  
Firm, LLC,

Appellants,

vs.

Michael Brodkorb & Missing In  
Minnesota, LLC

**RESPONDENTS' SECOND  
MOTION TO DISMISS FOR  
FAILURE TO TIMELY FILE  
APPROPRIATE BRIEF**

Respondents.

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The Appellants attempted to file their brief at 11:56 p.m. on August 19, 2019, the date the brief was due according to the law of this case. The principal brief that was filed was, in its main part, consists of 46 pages, 1 page more than the 45 pages permitted by Minn. R. App. P. 132.01 Subd. 3. Inexplicably, or perhaps to skirt the 45 page limit rule, the 2 page Table of Contents and a 4 page Table of Authorities were filed along with the brief as "other" documents.

In any event, the proffered principal brief is untimely as Minn. R. App. P. 125.01 (c) (1) requires that the brief be accepted to be timely. The Appellants have now filed a different brief at 10:58 p.m., August 20, 2019. There is no existing order allowing the late filing of briefs. This second brief proffered by the Appellants is even longer than the first one at 53 pages. Minn. R. App. P. 132.01 Subd. 3 states:

**"Subd. 3. Length Limit.**

Except for good cause shown and with permission of the appellate court, briefs, whether printed or typewritten, exclusive of pages containing the table of contents, tables of citations, and any addendum, shall not exceed 45 pages for principal briefs, 20 pages for reply briefs, and 20 pages for amicus briefs, unless the brief complies with one of these alternative measures:

(a) A principal brief is acceptable if:

- (1) it contains no more than 14,000 words; or
- (2) it uses a monospaced font and contains no more than 1,300 lines of text.

(b) A reply brief is acceptable if:

- (1) it contains no more than 7,000 words; or
- (2) it uses a monospaced font and contains no more than 650 lines of text.

(c) An amicus brief is acceptable if:

- (1) it contains no more than 7,000 words; or
- (2) it uses a monospaced font and contains no more than 650 lines of text.”

The new brief, excluding the two page Table of Contents and the four page Table of Authorities, is 47 pages long. The Word Count Compliance Certificate on the first brief states that it contains 12,095 words and this Certificate on the second brief states that it contains 12,019 words. Somehow, the size of the brief increased but the number of words in it decreased. In any event, by the Appellants’ own representations to the Court, these are different briefs. One cannot simply do an incorrect filing to buy more time to revise their brief and file it all over again. This appeal has been pending since April 20, 2019. Through manipulations relating to the certificate as to transcript the Appellants were able to delay their brief due date to August 19, 2019. Despite getting all of this time, the delays continue unabated. At this point given the circumstances, dismissal of this appeal is requested and is appropriate at this time.

Respectfully submitted,

Dated: 8/21/2019

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